



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of the Chancellor

April 22, 2015

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: CG Docket No. 02-278
Comments on Blackboard Inc. Petition for Expedited Declaratory Ruling**

Dear Secretary Dortch:

We are writing regarding the Petition for Expedited Declaratory Ruling ("Petition") filed by Blackboard Inc. ("Blackboard"), which asked the Federal Communications Commission ("FCC") to make certain declarations regarding the application of the Telephone Consumer Protection Act ("TCPA") to the education-related messages we send to our school community.

Educational organizations such as ours depend on automated and prerecorded messages to send mass notifications to parents, guardians, students, and faculty regarding emergency weather closures, threat situations, unplanned student absences, event scheduling, or to provide other important education-related information. Recipients of our mass notifications expect them and consider them an essential part of our educational role. These messages are received via the recipient's preferred contact method, which often includes a wireless telephone number as the primary method of contact.

We recognize the importance of ensuring that education-related messages are delivered consistent with the recipient's expectations and preferences. We therefore require message recipients to give consent for us to contact them and to designate how they prefer to be contacted. Specifically, at the beginning of the academic year, recipients provide us with their telephone numbers and email addresses for contact purposes, and elect how they would like to receive information (via text, or email).

There is a growing number of students, parents, and others using wireless devices as their preferred method of contact. In those cases, we send education-related messages only when a recipient provides its wireless telephone number and requests that the number be used to communicate with the recipient. We strive to use high standards and practices in securing and maintaining the consent and information necessary to contact recipients via their requested method of notification.

We realize the TCPA makes it illegal to send certain types of messages using an artificial or prerecorded voice to a wireless telephone number without the recipient's prior express consent, and that it allows consumers to sue those entities sending such messages without proper authorization. The messages we send, however, are not the unwanted telemarketing the TCPA was intended to eliminate. Our informational messages are sent for non-commercial purposes, and do not contain any type of solicitation. Further, our messages are sent only with the authorization of the intended recipient - we cannot send a message without being provided the wireless telephone number to be used. The FCC's rules and policies designed to protect the public from unwelcome robocalls do not apply to education-related communications between schools and the constituents they serve.

The messages we send are critical to and expected by the school community, especially in a threat or emergency weather situation. These public interest messages need to be protected from TCPA litigation actions. The FCC should declare that educational institutions, and the mass notification providers they engage on their behalf, are not liable under the TCPA for the educational-messages we send to our constituents.

We support Blackboard's request that the FCC declare that the prior authorization that educational institutions obtain before sending their education-related messages extends to: (1) the wireless telephone number provided to the educational institution even if, unbeknownst to the educational institution, the number has been reassigned by a wireless carrier to another user, or (2) the recipient the educational institution intended to receive the call, and not to the person who inadvertently receives the call. Such a declaration would ensure that neither educational organizations such as ours, nor their third-party service providers, are subject to TCPA liability for education-related messages received in error.

Given the proliferation of wireless devices and consumers' increasing reliance on wireless technologies as their sole means of communication, it is not unusual that a consumer occasionally receives an education-related message in error. A consumer may receive a message in error due to the disconnection and reassignment of a telephone number by a wireless carrier (which then provides the number to a new subscriber), a recipient's decision to forward calls to a new telephone number, or other good faith errors all of which can occur without our knowledge. Unless we are notified otherwise, we have no way of knowing that a message was received in error.¹ Once we are notified of an error, however, we promptly update our contact information database to correct the error.

¹ It would be impossible for us to confirm whether a wireless telephone number is being used by the same recipient that gave us consent before sending an automated message. The biggest advantage in using automated messages - reaching a large number of people as quickly as possible - would be lost if we were required to make such a verification every time we send an education-related message.

Accordingly, we urge the FCC to promptly issue a Declaratory Ruling to affirm that education-related messages sent by schools are not subject to liability when sent to a wireless telephone number in error. While we appreciate the concern about unwanted telemarketing robocalls, the FCC should ensure that consumers can continue to receive time-sensitive and important information on their wireless devices without subjecting educational institutions and the vendors they use to the risk of TCPA liability.

Thank you for the opportunity to share our concerns and comments on Blackboard's Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'LRuda', followed by a long horizontal line extending to the right.

Lisa M. Ruda
Deputy Chancellor for Operations
District of Columbia Public Schools